

[Service Date December 23, 2009]

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper	)	DOCKET TV-091499
Carrier Classification of, and Complaint for)	
Penalties against:	)	ORDER 01
)	
CARL J. WASHINGTON d/b/a JEFFREY'S	)	ORDER INSTITUTING SPECIAL
MOVING COMPANY	)	PROCEEDING; COMPLAINT
	)	SEEKING TO IMPOSE
	)	PENALTIES
	)	and
	)	NOTICE OF HEARING
	)	(Set for January 15, 2010,
_____	)	at 1:30 p.m.

INTRODUCTION

- 1 The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether Carl J. Washington, d/b/a Jeffrey's Moving Company (Jeffrey's Moving), has engaged, and is engaging, in business as a household goods carrier within the state of Washington without the authority required by RCW 81.80.070 and RCW 81.80.075.
- 2 The Commission has information from which it believes and therefore alleges that Jeffrey's Moving has advertised, solicited, offered, or entered into one or more agreements to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission. The information demonstrates a continuing pattern of behavior over an extended period of time, including the present time.
- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring Jeffrey's Moving to cease and desist activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by Jeffrey's Moving that violates any law, or any order or rule of the

Commission. The Commission may impose financial penalties of up to \$5,000 for each violation shown.

- 4 At the hearing in this special proceeding that will be conducted pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, of which notice is given here, the Commission will also consider its Complaint against Jeffrey's Moving alleging various violations of law as specified below and decide whether Jeffrey's Moving should be penalized.

ORDER AND NOTICE OF HEARING

- 5 The Commission has jurisdiction to institute a special proceeding to determine whether Jeffrey's Moving is conducting business requiring operating authority, or has performed or is performing any act requiring Commission approval without securing such approval pursuant to RCW 80.01.040, RCW 81.80.070 and RCW 81.04.510. In addition to the foregoing statutes, this matter involves Title 81 RCW, including but not limited to RCW 81.01.010, RCW 81.04.020, RCW 81.80.070, and RCW 81.80.075. This matter also involves the administrative rules set forth in WAC 480-15 and WAC 480-07.

- 6 **IT IS HEREBY ORDERED** That Jeffrey's Moving appear before the Commission in this special proceeding conducted under the authority of RCW 81.04.510 at 1:30 p.m. on January 15, 2010, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to give testimony and evidence under oath as to its operations. Jeffrey's Moving shall appear at the time and place set forth above unless the Executive Director and Secretary of the Commission, by notice of hearing, specifies a different time and place. This is ordered pursuant to the subpoena powers granted in RCW 34.05.446, RCW 80.01.060(1), and RCW 81.04.510.

- 7 **IT IS FURTHER ORDERED** that at the hearing in this special proceeding the burden of proving that the alleged operations are not subject to the provisions of Title 81 RCW shall be upon Jeffrey's Moving, as provided by RCW 81.04.510.

- 8 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

- 9 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.
- 10 The names and mailing addresses of all parties and their known representatives are shown as follows:

Carrier: Mr. Carl J. Washington
Jeffrey's Moving Company
1007 130th St. S.W.
Apt. M106
Everett, WA 98204-9323

Representative: Unknown

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186

COMPLAINT SEEKING PENALTIES

PARTIES

- 11 Complainant, the Washington Utilities and Transportation Commission, is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including household goods carriers, under the provisions of Title 81 RCW.
- 12 Respondent, Jeffrey's Moving Company, owned by Carl J. Washington, is a sole proprietorship that does business in the state of Washington.

JURISDICTION

- 13 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, RCW 81.04.160, RCW 81.04.460, and RCW 81.80.

BACKGROUND

- 14 The Commission became aware of a household goods carrier operating under the name "Jeffrey's Moving Company" in September 2008, when a Jeffrey's Moving customer lodged an informal complaint against the company with the Commission. Commission Staff determined that Jeffrey's Moving did not hold any type of authority from the Commission.
- 15 According to the Compliance Investigator's Declaration, presented to the undersigned administrative law judge¹ under penalty of perjury, the following facts establish probable cause for the Commission to complain against the activities of Jeffrey's Moving and to seek penalties in accordance with applicable law.

¹ Administrative law judges appointed by the Commission are empowered, among other things, to "make findings of probable cause and issue complaints in the name of the commission." RCW 80.01.060(1).

- 16 In October 2008, the Commission sent a compliance letter to the company owner, Carl J. Washington, instructing him to stop moving household goods and to stop advertising such transport on his Web site, www.jefferysmoving.com, and elsewhere. Following receipt of the compliance letter, Mr. Washington contacted Commission Staff. From his representations, Commission Staff understood that Mr. Washington planned to file an application for a household goods carrier permit without delay.
- 17 On April 6, 2009, Commission Staff contacted Mr. Washington and inquired about the status of his household goods carrier permit application. Mr. Washington claimed to be providing a pack and load service only. Just over a week later, on April 15, 2009, a permitted household goods carrier contacted Commission Staff and complained that the permitted carrier had just lost a bid on a household goods move to Jeffrey's Moving.
- 18 The Commission sent a letter to Jeffrey's Moving on July 15, 2009, informing Jeffrey's Moving about a new law, Laws of 2009, ch. 94, effective July 26, 2009, allowing the Commission to seek penalties and other enforcement against illegal carriers for advertising to transport household goods. In this letter, the Commission stated that Jeffrey's Moving must cease advertising as a household goods mover and, to avoid enforcement action, Jeffrey's Moving must file a household goods carrier permit application by August 15, 2009.
- 19 In late August 2009, Commission Staff received a call from a Seattle Police Department (SPD) detective regarding Jeffrey's Moving. The detective was investigating a complaint from a Jeffrey's Moving customer who had hired the company to move her into a retirement facility. The heart of the customer's complaint was that Jeffrey's Moving was holding many of her belongings to pressure her to pay Mr. Washington more money.
- 20 In October 2009, a consumer complained to the Commission that Jeffrey's Moving had offered to provide moving services, then cancelled the appointment and charged \$200 to the consumer's credit card without authorization.

- 21 Jeffrey's Moving is holding itself out to the public as a household goods carrier without possessing the proper authority from the Commission. Specifically, the Commission has evidence that since July 26, 2009, Jeffrey's Moving has offered and provided household goods moving services within the state of Washington and has continued to advertise such services on its Web site, jefferysmoving.com.

APPLICABLE LAW AND REGULATION

- 22 Under state law, the definition of "household goods carrier" includes a person who "advertises, solicits, offers, or enters into an agreement to transport household goods" within the state of Washington. *RCW 81.80.010(5)*.
- 23 The term "person" can mean a firm as well as an individual. *RCW 81.04.010(6)*. Specifically included in this term are companies, corporations, and partnerships. *WAC 480-15-020*.
- 24 The Commission defines household goods as "the personal effects and property used, or to be used, in a residence" in the context of transportation from one residence to another, or to a storage facility. *WAC 480-15-020*.
- 25 Household goods carriers are common carriers. *RCW 81.04.010(11)*. For the purposes of Title 81 RCW, every common carrier is a public service company. *RCW 81.04.010*.
- 26 It is illegal to engage in business as a household goods carrier within the state of Washington without first obtaining a household goods carrier permit from the Commission. *RCW 81.80.075(1)*.
- 27 Any person who engages in business as a household goods carrier in the state of Washington without the required permit is subject to a penalty of up to five thousand dollars per violation. *RCW 81.80.075(4)*. If the basis for the violation is advertising, each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation. *RCW 81.80.075(4)(a)*.

- 28 When deciding the amount of the penalty to be ordered for engaging in business as a household goods carrier without a household goods carrier permit, the Commission must consider (1) the carrier's willingness to comply with the requirements of RCW 81.80.070 and the Commission's household goods carrier rules; and (2) the carrier's history of compliance with the provisions of RCW 81.80.075. *RCW 81.80.075(4)(b)*.
- 29 The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. *RCW 81.04.110*.

COMPLAINT

- 30 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 11 through 29 above.
- 31 Jeffrey's Moving has violated RCW 81.80.075(1) by transporting, offering to transport, and advertising to transport household goods without first having obtained a household goods carrier permit from the Commission.

REQUEST FOR RELIEF

- 32 Staff requests that the Commission, pursuant to its authority under RCW 81.80.075(4) order penalties of five thousand dollars against Jeffrey's Moving for each violation of RCW 81.80.075(1).

PROBABLE CAUSE

- 33 Based on a review of the Declaration of the Commission Compliance Investigator assigned to this matter, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

NOTICE OF HEARING

34

THE COMMISSION GIVES NOTICE THAT it will conduct a hearing concerning this Complaint concurrently with the special proceeding noticed above, which will commence at 1:30 p.m. on January 15, 2010, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. Administrative Law Judge Ann E. Rendahl, from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, is designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective December 16, 2009.

DENNIS J. MOSS
Senior Review Judge
Administrative Law Division

Inquiries should be addressed to:

Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____